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## APPENDIX.

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### WORKMEN'S INSURANCE IN GERMANY.

[Prepared by F. W. TAUSSIG.]

The acts for the insurance of workmen against sickness and accidents are the most important results of the policy of social reform which has been entered on in Germany within the last few years. The discussions which led to these measures hinged at first on the amendment of the employer's liability act of 1871, whose working had not been entirely satisfactory.\* They took wider scope as the socialist agitation gave a stimulus to the idea of a conscious and regulated interference by the state for the aid of the poorer classes. A first result was in the acts of April 7 and 8, 1876, by which communes were empowered to compel workmen to join associations, either of a voluntary nature or established by the commune itself, for insurance against sickness. Communes were also empowered to compel employers to contribute to such associations sums up to one-half the amount contributed by workmen. Legislation of more stringent character was, however, strongly urged, for which the *Knappschaftsvereine* in mining industries gave a model. These associations, which have existed for centuries, and membership in which has been for many years compulsory in most German states for mine-owners and miners, insure the workmen against sickness, permanent injury, and death, by means of premiums paid by owners and workmen. The first step for a general application of this method was taken in a bill for insurance against accident, submitted to the Reichstag in March, 1881, and providing for a centralized insurance managed by an imperial bureau and for contributions from the funds of the Empire. The Reichstag amended it by putting the management in the hands of the federal states, and not of the Empire. In this form the bill was passed by the Reichstag, but rejected by the Bundesrath. A second bill was presented in 1882, providing for insurance both against sickness and against accident. That part of it only which provided for sick insurance was found acceptable, and, being taken up separately, became law on June 15, 1883. A third project for insurance against accident was presented in the following year, differing from the previous schemes in that it called for no contributions from imperial resources, and organized more carefully the associations by which, under the second

\* Some sketch of the discussion that preceded the legislation may be found in an article by G. Schmoller, "Haftpflcht und Unfallversicherung," in the *Jahrbuch für Gesetzgebung*, vol. v., pp. 249-318.

project, the insurance was to have been undertaken. The third bill finally became law, July 4, 1884. Certain supplementary acts, extending the fundamental provisions of these main acts with more or less modification to occupations not previously embraced, have since been passed, and are noted below.

A considerable body of literature has sprung up on this legislation, and several periodicals have been established to aid in its observance or operation. The Imperial Insurance Bureau issues *Amtliche Nachrichten* (Berlin), which are now in their third year; and it also gives its sanction to a semi-official publication, *Die Arbeiterversorgung* (Neuwied), which is in its fourth year. Other private periodicals are *Die Berufsgenossenschaft* (Berlin) and *Die Arbeiterversicherung* (Dresden).

We print a translation of the essential parts of the texts of the acts of 1883 and 1884. Non-essential parts are omitted; and of some parts we print, instead of the full text, an abstract, indicated by brackets.

#### AN ACT FOR THE INSURANCE OF WORKMEN AGAINST SICKNESS, APPROVED JUNE 15, 1883.\*

##### A. COMPULSORY INSURANCE.

§ 1. Persons who are employed at a salary or for wages — (1) in mines, salt works, establishments in which ores are treated, quarries, pits, factories, smelting works, railroads and river-steamships, on wharves, and in building operations; (2) in mechanical trades and in any permanent manufacturing occupation; (3) in establishments in which machines moved by steam or other natural power (wind, water, steam, gas, hot air, etc.) are used, except where there is no more than temporary use of a machine not forming part of the plant — shall be insured against sickness according to the provisions of this act, excepting those persons mentioned in § 2, paragraphs 2-6, and excepting those whose employment is from its nature temporary or limited by contract to a period of less than one week. Administrative officers (*Betriebsbeamte*) are subject to compulsory insurance only if their pay does not exceed 6 2-3 marks for every work day.

Salary or wages, in the sense of this act, shall include *tantièmes* and payments in kind. The money equivalent of the latter is to be reckoned according to the average prices of the locality.

§ 2. A commune, or an association of communes, may by ordinance extend the provisions of § 1 to: (1) those persons specified in § 1 whose employment is from its nature temporary or limited by

\* The text of this act is given in the *Jahrbücher für Nationalökonomie*, vol. vii. (neue Folge), pp. 436-452. French translations are in the *Annuaire de Législation Etrangère* for 1883, pp. 119-157, and in the *Bulletin de Statistique et de Législation Comparée*, vol. xiv., p. 90.

contract to a period of less than one week; (2) clerks and apprentices in mercantile establishments and in apothecaries' shops; (3) persons employed in transportation otherwise than as specified in § 1; (4) persons employed outside the seat of the establishment by those carrying on a mechanical trade [*Gewerbetreibende*]; (5) persons carrying on independently a mechanical trade in their own establishments, at the orders and on account of others (household industry); (6) agricultural laborers and those employed in forests. . . .

[§ 3 provides that persons employed in the public service of the empire, of one of its constituent states, or of a municipal body, at fixed salaries, are not to be affected by the act.]

#### B. GEMEINDEKRANKENVERSICHERUNG.\*

§ 4. For all persons subject to compulsory insurance, insurance takes place at the hand of the commune, unless undertaken by an *Ortskrankenkasse* (§ 16), by a *Betriebs- (Fabrik-) Krankenkasse* (§ 59), a *Baukrankenkasse* (§ 69), an *Innungskrankenkasse* (§ 73), or a registered or duly authorized *Hilfskasse* (§ 75). Persons of the kind mentioned in §§ 1, 2, 3, who are not subject to insurance, and domestic servants, shall have the right to join the *Gemeindekrankenversicherung* in the commune in which they are employed. They may join by written or verbal notice to the commune or its officers, but shall have no right to benefits in case of sickness that has begun at the time of giving notice. Those who have joined and have failed to pay the insurance contribution for two successive dates of their falling due forfeit their insurance at the hand of the commune.

§ 5. Those persons for whom *Gemeindekrankenversicherung* takes place are to be given by the commune within whose limits they are employed benefits in case of sickness, or in case of disability from work brought about by sickness. From such persons the commune shall raise sick insurance contributions (§ 9).

§ 6. There shall be granted as benefits in case of sickness: (1) from the beginning of sickness, gratuitous medical attendance, medicines, spectacles, trusses, and similar appliances; (2) in case of disability from work, for each working day, beginning with the third day after the day on which sickness begins, a sick pay of one-half of the daily pay of ordinary laborers at the locality.

These benefits shall cease, at latest, at the close of the thirteenth week after the beginning of the sickness.

The communes are empowered to make regulations whereby sick pay is to be granted only in part or not at all in cases where the sickness has been brought about intentionally, by criminal participation in

\* Insurance at the hand of the communes.

assaults and brawls, by drunkenness, or by sexual excesses; and also regulations whereby persons who are not subject to compulsory insurance and who voluntarily join the *Gemeindekrankenversicherung* are to obtain aid only at the close of a specified period after their joining,—that period, however, not to exceed six weeks.

Sick pay is to be paid at the close of each week.

§ 7. In place of the benefits prescribed in § 6, free treatment in a hospital may be given: (1) for those who are married or members of a family, with the consent of their family, or without that consent if the sickness calls for treatment such as cannot be given properly by the family; (2) for all other persons unconditionally.

If the person taken to a hospital has others dependent on him, whom he has previously supported, he is to receive in addition to free hospital treatment the sick pay provided for in § 6.

§ 8. The amount of the daily wages of ordinary laborers in each locality is to be determined by the higher administrative authorities after consultation with the communal authorities. The determination is to be made separately for men and for women, for young persons and for adults. Apprentices shall be assumed to receive the wages of young persons.

§ 9. The insurance contributions to be raised by the communes, except as otherwise provided in § 10, are not to exceed 1 1-2 per cent. of the daily wages of the locality, and are to be raised at that rate unless otherwise provided for. [Separate accounts are to be kept by the communes of the receipts and expenses for this purpose.]

If the receipts on insurance account do not suffice for the payments due from it, the deficit is to be made good from the general resources of the commune, and is to be repaid to the commune out of the insurance account, provided that the provisions of § 10 in regard to that account have been complied with.

§ 10. If the yearly accounts show that the lawful insurance contributions do not suffice to pay the lawful benefits, the contributions can be raised, with the consent of the higher administrative authorities, to 2 per cent. of the ordinary daily wages of the locality. Any excess of receipts over expenses, so far as not needed to reimburse the commune for advances made by it, is to be used for the accumulation of a reserve fund to the amount of the annual average total receipts. The contributions shall then be lowered to 1 1-2 per cent. of the ordinary daily wages of the place. If, thereafter, an excess of receipts still remains, the commune shall determine whether contributions are to be further lowered or an increase in the benefits granted is to be made. Should the commune take no action, the higher administrative authority may require a reduction of the contributions.

§ 11. If persons for whom *Gemeindekrankenversicherung* has set in leave the occupations whereby they became entitled to that insurance and do not enter an occupation in which they become by this act entitled to insurance, their right to aid shall continue so long as they continue to pay the insurance contributions, and either remain in the commune in which they formerly lived or else have their domicile in the commune in which they were last employed.

§ 12. A number of communes can agree to unite for joint communal insurance. [Detailed provisions are made for such joint action, which can also be prescribed by the higher administrative bodies.]

§ 13. If in any commune there are less than fifty persons for whom communal insurance is to take place, or if the yearly accounts of any commune show, after the increase of the insurance contributions to 2 per cent. of daily wages, that permanent supplements from the general funds of the communes are needed to pay the benefits herein provided for, such commune on its own application can be joined by the higher administrative authorities with one or more neighboring communes for joint insurance. Should these conditions take place for the majority of the communes belonging to a larger communal association, the higher administrative authorities may require that such larger communal association shall take the place of the individual communes for the purpose of sick insurance. [Sections 14 and 15 make further and detailed provisions for joint action by communes.]

### C. ORTSKRANKENKASSEN.\*

§ 16. The communes shall have the right to establish for persons liable to insurance, who are employed within their limits, *Ortskrankenkassen*, provided that the number of persons to be insured by such association be at least one hundred. The *Ortskrankenkassen* shall be established, as a rule, for persons employed in one trade or in one class of occupations. Joint *Ortskrankenkassen* may be established for several trades, or several classes of occupations, if the number employed in the individual trades or occupations is less than one hundred.

Trades or occupations in which one hundred or more persons are employed can be united with other trades or occupations in a joint *Ortskrankenkasse* only in case the persons employed have been given an opportunity to express their wishes in regard to the establishment of the joint association. Should there be opposition, the higher administrative body is to decide as to the establishment of such joint association.

\* Local sick associations.

§ 17. The higher administrative body may require the commune to establish an *Ortskrankenkasse* for persons employed in a trade or occupation, if such action is requested by the persons concerned, and if this request, after opportunity given for the expression of opinion by all concerned, is made by more than half of these and by at least one hundred persons. A similar requirement may be made for the establishment of a joint *Ortskrankenkasse* for a number of trades or occupations, if more than one-half of the persons employed in each trade and in each occupation, and at least one hundred persons, join in the request.

[Further provision is then made for the establishment of *Ortskrankenkassen*, which are authorized in certain cases even if their membership is less than one hundred.]

§ 20. The *Ortskrankenkassen* shall provide at the least: (1) a sick pay, which is to be ascertained in the manner specified in §§ 6, 7, 8, substituting, however, for the daily wages of ordinary laborers the average daily wages of those trades or classes for whom the association is established, in so far as that average shall not exceed three marks per working day; (2) a similar payment to women in childbirth for three weeks after the birth; (3) in case of death, a payment of twenty times the average wages of day laborers in the locality, as described in § 8.

The average wages of the members of such an association may also be arranged in classes, in so far as there are differences between the wages of different members. In such case, the average daily wages in any one class shall not be fixed at more than four marks per day nor at less than the amount of the wages of ordinary laborers (§ 8).

[§ 21 provides that *Ortskrankenkassen*, if they see fit, may enlarge their benefits by extending the time for which aid shall be granted, by increasing the amount of sick pay, by granting sick pay to those who are treated in hospitals, and in other specified ways; but they may not provide for benefits to invalids, widows, or orphans.]

§ 22. The contributions to the *Ortskrankenkassen* are to be fixed at a percentage of daily wages sufficient, when added to such other receipts as there may be, to provide for the statutory benefits, running expenses, and a reserve fund as required by § 32.

§ 23. The communal authority, after a hearing of the persons concerned or their representatives, shall establish by-laws [*Kassenstatut*] for each *Ortskrankenkasse*. The by-laws shall determine: (1) the classification of the persons subject to insurance who are to be members of the association; (2) the benefits to be given; (3) the amount of the contributions; (4) the choice of the executive committee [*Vorstand*] and its powers; (5) the composition of the general meeting

and the manner in which it shall be called and shall conduct its business; (6) the manner of amending the rules and regulations; (7) the rendering and auditing of the yearly accounts. The by-laws shall contain nothing inconsistent with the objects of the association or with provisions of law.

§ 24. The by-laws of the association must be approved by the higher administrative authorities, which shall take action with regard to them within six weeks, and shall approve them unless they fail to comply with the provisions of this law. If approval is refused, the reasons therefor shall be communicated. [Provision is made for an appeal from such a decision of the higher administrative authorities.] . . .

§ 26. . . . The by-laws may further determine: (1) that members who have repeatedly defrauded the association shall be excluded; (2) that members who have brought on their sickness intentionally, by criminal participation in assaults or brawls, by drunkenness, or by sexual excesses, shall not receive the benefits or receive them only in part; (3) that a member who has received the statutory benefits for thirteen weeks uninterruptedly, or for thirteen weeks of a single calendar year, shall receive, on occasion of a new sickness, the lawful minimum of aid only if a period of thirteen weeks or more has elapsed between the granting of the previous aid and the beginning of the new sickness; (4) that persons not subject to compulsory insurance, who have become voluntarily members of the association, shall not receive aid until the end of a period not exceeding six weeks after their joining the association.

[The next sections make further provisions as to the *Ortskrankenkassen*, among others that membership shall cease when the payment of contributions has not been made on two successive dates of payment due; that members who lose their employment shall retain their right to aid from the association for a period of not more than three weeks after the time when their membership ceases; that employers who are under an obligation to make payments to the association out of their own means shall have a representation on its executive committee not exceeding one-third the number of the committee; that several communes can unite for the establishment of joint *Ortskrankenkassen*.] . . .

§ 44. The supervision of the *Ortskrankenkassen* shall be undertaken in communes of more than ten thousand inhabitants by the communal authorities; elsewhere, by such authorities as may be designated by the governments of the respective federal states.

§ 45. The supervising authority shall see that the provisions of law and of the by-laws are obeyed, and may compel obedience by threat-



ening and fixing penalties on the officers of associations. It may inspect all transactions, books, and accounts of the association, and examine the cash. It may require meetings of the officers of the association to be held, and, in case of need, may itself call such meetings. . . .

D. PROVISIONS COMMON TO GEMEINDEKRANKENVERSICHERUNG AND TO ORTSKRANKENKASSEN.

§ 49. Employers shall give notice, at least three days after employment begins, of every person employed by them to whom *Gemeindekrankenversicherung* applies or who belongs to an *Ortskrankenkasse*, and shall give notice, at least three days after the close of the employment, of such close. [Provision is made for the places at which these notices shall be given.]

§ 50. Employers who fail to give the notices required of them shall reimburse all expenses incurred in consequence of statutory provision by a commune or an *Ortskrankenkasse*, in aid of any person who shall have become sick before notice given.

§ 51. Employers shall pay in advance the contributions which shall become due, by statute or lawful regulation, to the *Gemeindekrankenversicherung* or to an *Ortskrankenkasse*, for persons employed by them. Contributions to the former shall be paid weekly, unless otherwise determined by vote of the communal authorities. Contributions to the latter shall be paid at the periods fixed by their rules and regulations. Contributions shall continue to be paid until the required notice of termination of employment has been given. Money so paid may be refunded to the employer, if the person on whose account it was paid shall have parted in the mean while from the insuring body to which the payment was made.

§ 52. Employers shall pay out of their own means one-third of the contributions due on account of persons employed by them and liable to insurance. By local ordinance (§ 2), it may be provided that employers who do not use steam-boilers or other machinery propelled by natural power, and who do not employ more than two persons subject to compulsory insurance, shall be released from the obligation to make contributions out of their own means.

§ 53. Employers shall have the right to subtract from the wages of persons employed by them the contributions which they are obliged to pay for such persons, in so far as they are not obliged by § 52 to pay such contributions out of their own means, provided that such subtractions shall be made proportionally to the wages due at any one time of payment. . . .

§ 56. The rights accruing under this act to persons entitled to benefits may not be forfeited, transferred, or pledged, and may be offset only by contributions due on account of them.

§ 57. The obligation of communes or poor law associations for the maintenance of persons in need of aid, and the rights which persons insured under this act may have by contract or by force of law, against third persons, shall not be affected by this act.

In case a commune or poor law association grants aid, lawfully required of it, for a period during which the person aided had rights by force of this act, such rights shall accrue to the commune or association to the extent of the aid granted by it. The same shall hold good of employers and associations which shall have fulfilled, under requirement of law, an obligation incumbent upon communes or poor law associations.

In case the *Gemeindekrankenversicherung* or an *Ortskrankenkasse* shall have granted benefits in a case of sickness for which the insured person had a legal right of indemnity against third persons, this claim, to the extent of the benefits granted, shall accrue to the *Gemeindekrankenversicherung* or the *Ortskrankenkasse*. . . .

#### E. BETRIEBS- (FABRIK-) KRANKENKASSEN.\*

§ 59. Associations which shall be created for one or more establishments carrying on the trades specified in § 1, and which shall provide, by contract or factory rules, for the compulsory membership of the persons employed in such establishments, shall be subject to the following provisions:—

§ 60. An employer who employs in one or more establishments fifty or more persons subject to compulsory insurance shall have the right to establish a *Betriebs- (Fabrik-) Krankenkasse*. He may be compelled, by order of the higher administrative authority, to establish such association, if a request to this effect is made by the commune in which the employment takes place or by the sick association of which the persons employed are members. Before such an order is issued, the employer shall have an opportunity to be heard; the persons employed by him, or their elected representatives, shall have a similar opportunity; and, should the request come from an *Ortskrankenkasse*, the commune also shall have such opportunity.

§ 61. Employers in whose works there is peculiar danger of sickness to the persons employed may be compelled to establish a *Betriebs- (Fabrik-) Krankenkasse*, even though they employ less than fifty persons. Employers employing less than fifty persons may be permitted to establish such an association, if its permanent financial sol-

\* Sick associations for particular establishments (factories).

veny is made certain in a manner satisfactory to the higher administrative authority.

§ 62. Employers who fail to fulfil the obligation to establish a *Betriebs- (Fabrik-) Krankenkasse* within a period to be determined by the higher administrative authority shall pay out of their own means for every person employed by them and subject to compulsory insurance, contributions of not more than five per cent. of the wages earned, to the *Gemeindekrankenversicherung* or to the *Ortskrankenkasse*. The extent of such contributions shall be fixed without appeal by the higher administrative authority after a hearing of the communal authorities.

[Further rules are then laid down for these *Betriebs- (Fabrik-) Krankenkassen*. The manner of making out their by-laws is determined, the provisions in regard to the *Ortskrankenkassen* being made to apply to them, with certain modifications.]

§ 65. The employers in whose establishments such associations are established shall pay out of their own means one-third of the contributions due for members by the statutes of the associations. They shall have the right to deduct from wages, at each regular payment of wages, two-thirds of the contributions due, the deduction being made proportionally to the wages then due.

In case the minimum benefits required of the association cannot be covered by contributions, after these contributions have reached three per cent. of the average daily wages or earnings of the persons insured, the employers shall pay out of their own means the additional sums needed. . . .

#### F. BAUKRANKENKASSEN.\*

§ 69. For persons employed in building railroads, canals, roads, levees, dikes, and fortifications, as well as in any other temporary building operations, *Baukrankenkas* shall be established, at the order of the higher administrative authority, by the persons carrying on the operations, if they employ for a continuous period of time a considerable number of workmen.

§ 70. The obligations hereby imposed upon the persons carrying on building operations may be transferred, with the consent of the higher administrative authority, to one or more contractors undertaking a part or the whole of such operations on their own account, provided such contractors give security to the higher administrative authority for the fulfilment of their obligations.

§ 71. Builders who do not fulfil the obligation imposed upon them by § 69 shall pay out of their own means to persons employed

\* Sick associations for building operations.

by them, or their representatives, the aids provided for such persons by § 20 in case of sickness or death. . . .

[Part G of the act provides for *Innungskrankenkassen*, which may be formed by incorporated associations of employers for the application of the act to their apprentices and journeymen. Part H enacts that, where associations for aid in case of sickness already exist, such as the *Knappschaftskassen* of mining regions and the registered *Hilfskassen* (friendly societies), these associations shall so modify their regulations and procedure as to conform to the provisions of the present act.]

## AN ACT FOR INSURANCE AGAINST ACCIDENTS, JULY 6, 1884.\*

### I. GENERAL PROVISIONS.

§ 1. All workmen and administrative officers (*Betriebsbeamte*) employed in mines, salt works, establishments in which ores are treated (*Aufbereitungsanstalten*), quarries, pits, on wharves, in building establishments, in factories and smelting works, shall be insured in accordance with the provisions of this act against accidents occurring in the course of their occupations. The act shall apply to administrative officers only in so far as their yearly pay or salary does not exceed two thousand marks.

It shall also apply to workmen and administrative officers employed by persons who undertake the execution of masonry, carpentry, roofing, stone-cutting, well-digging work, and to chimney-sweeps.

The establishments enumerated in paragraph 1 shall include, for the purposes of this act, all undertakings in which machinery propelled by steam or other natural power (wind, water, steam, gas, hot air, etc.) is used, excepting undertakings accessory to agriculture or forestry and not specified in paragraph 1, and excepting, also, such undertakings as employ temporarily a machine not forming part of the permanent plant.

Factories, in the sense of this act, shall mean undertakings in which a business of working at commodities is carried on (*Bearbeitung oder Verarbeitung von Gegenständen gewerbsmässig ausgeführt*), and in which not less than ten workmen are usually employed, and also undertakings in which explosives are produced in course of business.

[It is further provided that the Imperial Insurance Bureau

\* The text in German is in Supplement-Heft 10 to the *Jahrbücher für Nationalökonomie* (1884). French translations are in the *Annuaire de Législation Étrangère* for 1884, pp. 121-173, and in the *Bulletin de Statistique et de Législation Comparée*, vol. xvi., p. 216, *seq.*

(*Reichsversicherungsamt*) shall decide what other undertakings are to be considered factories; that the act shall apply to railroads and steamships which form an essential part of any of the enumerated occupations; that the Bundesrath may exempt undertakings in which there is no danger of accident from the obligation to insure.]

§ 2. The rules and regulations of an insuring body (§ 16, *seq.*) may extend the obligation to insure to administrative officers having a salary of more than two thousand marks a year. In such case, the indemnity is to be calculated on the basis of an entire year's pay. The rules and regulations may further determine the conditions under which an employer in undertakings specified in § 1 may insure himself, or other persons not subject to insurance by § 1, against accident.

§ 3. *Tantièmes* and payments in kind shall be considered part salary or wages in the sense of this act. The money value of articles received in kind shall be reckoned according to the local prices.

Annual earnings shall mean, unless made up of fixed sums paid at least once a week, three hundred times the average earnings per day. In those occupations in which the customary methods of work give to workmen regularly employed a smaller or larger number of working days, that number of working days shall be counted in reckoning the annual earnings.

[§ 4 provides that officers of the empire, of a federal state, or of a municipal body, having a fixed pay and entitled to pension, shall not be affected by the act.]

§ 5. The insurance shall yield indemnity for bodily injury or death, to be measured as follows. The indemnity in case of bodily injury shall be: (1) those expenses of cure which arise after the beginning of the fourteenth week from the occurrence of the injury; (2) a regular payment to be made after the beginning of the fourteenth week from the occurrence of the injury, to the person injured, during the continuance of his inability to work.

This payment is to be based upon the average earnings per day of the person injured, during the last year of his employment in that occupation in which the injury took place; but any excess of earnings over four marks is to be counted for only one-third of its amount. If the person injured has not been employed for an entire year in the occupation in which the injury took place, the average annual earnings of workmen of the same class in the same or similar occupations shall be used as the basis of reckoning. If these earnings do not reach the average local daily wages of ordinary laborers, as fixed by the higher administrative authorities according to § 8 of

the act of June 15, 1883, for insurance against sickness, this latter amount shall be used as the basis of reckoning.

The payment shall be: (a) in case of complete inability to work, 66 2-3 per cent. of the earnings, during such inability; (b) in case of partial inability to work, a portion of the payment specified in (a), to be determined according to the measure of earning capacity that remains. No right to indemnity shall belong to the person injured or his representatives, if he has intentionally brought about the accident.

[The next paragraphs provide for the accounting between the associations which have to insure against sickness by the act of 1883 and the associations which have to insure against accident by this act, for the indemnities imposed upon them respectively.]

§ 6. In case of death, the following additional indemnities are to be granted: (1) for expenses of burial, twenty times the daily earnings as determined by § 5, but not less than thirty marks; (2) a pension to be paid to the representatives of the person killed, which is to be based on earnings as defined in § 5. It shall be: (a) for the widow until her death or remarriage, 20 per cent. of the earnings; for every fatherless child within the age of fifteen years, 15 per cent.; and, if that child loses or has lost its mother, 20 per cent. of the earnings. The payments to widow and children together shall not exceed 60 per cent. of the earnings. If a higher percentage results from the above provisions, each share shall be reduced proportionally. If the widow marries again, she shall receive three times the amount of her annual pension as payment in full. No right shall accrue to the widow, if her marriage with the person insured took place after the occurrence of the accident.

(b) For parents or grandparents (*Azendenten*) of the person killed, if he was their sole support, the pension shall be, until their death or cessation of their need, 20 per cent. of his earnings. If there be several persons entitled under (b), parents shall be preferred to grandparents. If persons enumerated under (b) and persons enumerated under (a) put in competitive claims, the first mentioned shall have rights only in case the last mentioned put in a claim for the maximum pension. Representatives of a foreigner, who were not living within the country at the time of the accident, have no claim.

[§ 7 provides that, in place of the indemnity secured by § 5, treatment in hospitals can be given under the same conditions as are enumerated in the act for insurance against sickness.]

§ 9. The insurance shall be undertaken by the employers (*Unter-*

nehmer) in the occupations mentioned in § 1, who are to be united for this purpose in *Berufsgenossenschaften*,\* which are to be formed for specified districts, and, as a rule, shall include all establishments within each district in the branches of industry for which the associations are formed.

The person on whose account the business is carried on shall be reckoned as the employer. Establishments in which are included occupations of different kinds shall be assigned to that *Berufsgenossenschaft* to which the main occupation belongs. The *Berufsgenossenschaften* can acquire rights and assume obligations, sue and be sued, under their own names. For their debts, their property only shall be liable.

§ 10. The means for paying the indemnities assumed by the *Berufsgenossenschaften*, and for paying the expenses of their administration, shall be raised by contributions which are to be fixed year by year on the basis of the wages and salaries earned in the respective establishments by the persons insured, and on the basis of the danger-tariff hereinafter provided for (§ 28). Any excess of wages or salaries over an average, during the period of contribution, of four marks per day, shall be reckoned only for one-third of such excess.

No contributions may be raised from the members of the *Berufsgenossenschaften*, nor may their property be employed, for other purposes than the payment of the indemnities imposed on them, the granting of prizes for rescuing persons in danger and for preventing accidents, and the accumulation of reserve funds. . . .

## II. FORMATION AND CHANGE OF THE BERUFGENOSSENSCHAFTEN.

§ 11. Every employer in an establishment mentioned in § 1 shall give notice to the lower administrative authorities, within a period to be fixed and publicly announced by the Imperial Insurance Bureau, of the articles produced by him and the manner of producing them. For the establishments of which no notice is given, the authorities are to gather information as they can. They shall have the right to impose a fine on employers of not more than one hundred marks for failure to give the required notice.

The lower administrative authorities shall draw up a list of all establishments in their district, arranged according to the classification of the Imperial Statistics, stating the articles produced, the manner in which they are produced, and the number of employees

\* Trade Associations.

who are to be insured. This list shall be handed to the upper administrative authorities, by whom it is to be corrected, in case of need, so as to conform to the classification of the Imperial Statistics. The upper administrative authority shall hand to the Imperial Insurance Bureau similar lists of all establishments liable to insurance within their district.

### III. VOLUNTARY FORMATION OF BERUFGGENOSSENSCHAFTEN.

§ 12. The *Berufsgenossenschaften* may be formed, with consent of the Bundesrath, by agreement of the employers. The consent of the Bundesrath may be refused: (1) if the number of establishments for which the *Berufsgenossenschaft* is to be formed, or the number of workmen employed in them, is too small to guarantee the ability of the association permanently to fulfil its obligations in respect of insurance against accident; (2) if establishments are excluded from the *Berufsgenossenschaft*, which, because of their small number or the small number of the workmen employed in them, cannot form a solvent association of their own and cannot be practicably assigned to another association; (3) if a minority opposes the formation of the *Berufsgenossenschaft* and offers to form, for specific occupations or districts, a separate association deemed to be solvent.

[§§ 13 and 14 provide for the formation of the *Berufsgenossenschaften* by general meetings of the employers, which are to take place under the supervision of the Imperial Insurance Bureau. At these meetings, every employer has one vote for any number of workmen less than twenty, one vote for every twenty additional workmen up to two hundred, one for every hundred workmen above two hundred. § 15 provides for the formation by the Bundesrath of *Berufsgenossenschaften* in cases where the employers do not form them voluntarily, or fail to comply with §§ 12 to 14 in endeavoring to form them.]

§ 16. The *Berufsgenossenschaften* shall establish at a general meeting of their members by-laws (*Genossenschaftsstatut*) for their administration and order of business. . . .

§ 17. The by-laws shall fix: (1) the name and seat of the association; (2) the manner of selecting the executive committee (*Genossenschaftsvorstand*) and the extent of its powers; (3) the calling of the general meeting of the association and the manner in which it shall act; (4) the voting powers of the members, and the inspection of proxies for voting; (5) principles on which the officers shall act in arranging the classification of the danger-tariff (§ 28); (6) the



procedure in case of changes in the establishments or changes of employers; (7) the consequences of a stoppage of work in establishments, and, more particularly, the manner of making certain the payment of contributions by employers whose establishments close; (8) the payments to be made to the representatives of the workmen for attendance at association meetings (§§ 44, 49); (9) the handing in and auditing of the yearly accounts; (10) the manner of exercising the powers hereinafter granted to the association for preventing accidents and inspecting establishments; (11) the conditions under which the by-laws may be changed.

§ 18. The *Berufsgenossenschaften* shall accumulate a reserve fund. For its accumulation there shall be levied, when the first period for the payment of insurance contributions arrives, 300 per cent. of such contributions; at the second period, 200 per cent.; at the third, 150 per cent.; at the fourth, 100 per cent.; at the fifth, 80 per cent.; at the sixth, 60 per cent.; and thereafter, until the eleventh period, 10 per cent. less at each period. After the close of the first eleven years, the interest of the reserve fund is to be added to the principal until the fund shall have reached twice the sum annually needed by the association. Thereafter, the interest of the reserve fund, so long as the reserve fund exceeds twice the sums annually needed, may be used for meeting the current obligations of the association.

Upon application of the executive committee, the general meeting of the association may at any time order further supplementary contributions to the reserve fund, and may determine that the fund shall be raised to more than twice the sums annually needed. Such determination shall require the approval of the Imperial Insurance Bureau.

In cases of stringent need, the association, with the approval of the Imperial Insurance Bureau, may use the interest of the reserve fund and even trench on the principal, before the accumulation required above. Restitution to the reserve fund shall then take place as may be required by the Imperial Insurance Bureau.

[§§ 19-27 provide for the composition of the general meetings, permit the division of the *Berufsgenossenschaften* into geographical sections, make the consent of the Imperial Insurance Bureau necessary to the validity of the by-laws of the association, require the publication of the name, seat, and officers of the association, and regulate the election and duties of the officers and trustees. Officers and trustees may not decline an election, though they may decline a re-election, and shall serve without pay.]

§ 28. The general meeting of the association shall establish rules for classifying establishments according to the danger of accident in

them, and for determining the amount of the contributions in different establishments according to a danger-tariff. By vote of the general association, the arrangement and amendment of the danger-tariff can be assigned to a committee or to the executive committee. The arrangement and amendment of the danger-tariff must have the approval of the Imperial Insurance Bureau. If the association fails to establish a danger-tariff within a period to be determined by the Imperial Insurance Bureau, or fails to get the assent of the bureau to its tariff, the Imperial Insurance Bureau, after hearing such representatives of the association as shall have been assigned the task of fixing the tariff, shall itself set up the tariff.

The assignment of establishments to the different classes in the danger-tariff shall be made by the officers of the association in the manner prescribed by its by-laws. An employer may appeal from the assignment within two weeks to the Imperial Insurance Bureau.

The danger-tariff is to be revised after a period of not more than two years, and thereafter is to be revised every five years in the light of the accidents that have taken place in the different establishments. The results of such revision are to be submitted to the general meeting of the association, with a statement of the accidents insured against in this act, that have taken place in the different establishments. The general assembly shall then act on the maintenance or amendment of the classification and danger-tariff. The general assembly can for the ensuing period add supplements to or make deductions from the contributions of employers according to the number of accidents that have taken place in their establishments. Changes in the classification or in the danger-tariff are not valid without the approval of the Imperial Insurance Bureau, and a list of accidents that have taken place shall be laid before the Bureau.

§ 29. The by-laws may provide that the indemnities, up to 50 per cent. thereof, shall be borne by the geographical sections in whose districts the accidents take place. The contributions which may thereby be imposed upon the sections shall be divided among their members in accordance with the classification and the contributions established for the association itself.

§ 30. Associations may unite for the purpose of joint action, in part or in whole, in paying indemnities. Such unions must have the consent of the general meetings of the associations concerned and the approval of the Imperial Insurance Bureau. They shall take effect only at the beginning of a financial year. Agreements of this kind must make provision for the manner of dividing the obligations jointly assumed by the associations. . . .

[§§ 31-33 regulate further the manner in which the union of several associations shall take place, determine the conditions under which particular branches of industry or establishments in a particular district may leave or enter one or another association, provide for the dissolution of associations which shall have become insolvent, etc.]

§ 34. Every employer in an establishment belonging to those branches of industry for which the association is established in a given district is a member of that association. The employer in an establishment subject to insurance at the time when this act takes effect becomes a member at that time. Employers in establishments that come into existence at a future date, or become subject to insurance at a future date, become members at those dates respectively. Every member of an association has the right to vote, provided that he has not lost his honorary civil rights (*bürgerliche Ehrenrechte*).

[§§ 35-40 make it compulsory for employers to give notice of the character, size, and number of employees, of their establishments, and of changes in their occupations or establishments; require the officers of associations to maintain lists of the members; require the associations to hand in lists of their members to the Imperial Insurance Bureau, etc.]

#### IV. REPRESENTATION OF THE WORKMEN.

§ 41. Representatives of the workmen shall be elected for every section of an association, and, if the association is not divided into sections, for the association itself, for the purpose of electing members of the board of arbitration (§ 46), for the confirmation of the regulations for the prevention of accidents (§§ 78, 81), and for participation in the election of two non-permanent members of the Imperial Insurance Bureau (§ 87). The number of representatives shall be equal to the number of employers on the executive committee of the section or association.

§ 42. The election shall be by the executive committees of the *Ortskrankenkasse* or other sick insurance association whose seat shall be within the district of the section or association, and of which at least ten insured persons, employed in the establishments of members of the *Berufsgenossenschaft*, shall be members. The representatives of the employers in the sick insurance association shall have no vote in the election. Only those male persons are eligible for election who are of age, are obligatory members of the associations created by this

act, are employed in establishments of members of the association within the district of the section or association, are in possession of the citizens' rights (*bürgerliche Ehrenrechte*), and are not by judicial order fettered in the management of their property.

[Part V., §§ 46-50, provides for a board of arbitration for every *Berufsgenossenschaft* or section. It is to consist of a chairman, who is appointed by the government of the federal state, and must be a public officer; of two members elected by the association or section; and of two more elected by the representatives of the workmen.

Part VI., §§ 51-77, regulates the manner in which indemnities shall be fixed and paid. When an accident occurs, the local police authorities make an investigation, and decide on the cause and nature of the accident, what persons were injured and the nature of their injuries, and what persons there are (widows, orphans, etc.) who may be entitled to indemnities. The executive committee of the association or section then decides what indemnities, if any, shall be paid. From their decision appeal lies to the board of arbitration, and from this to the Imperial Insurance Bureau. The indemnities are to be paid by orders on the post-office, which is to be reimbursed annually by the associations for its advances.]

§ 78. An association shall have the power for the whole of its district or for any part thereof, or for particular branches of industry, or for particular kinds of establishments, to make regulations as follows: (1) Requiring members to adopt measures for preventing accidents, under penalty of assigning them to a higher class in the danger-tariff, or, in case they are already in the highest class, under penalty of supplements to their contributions up to twice the previous amount. A reasonable period is to be allowed members for adopting the required measures. (2) Requiring the persons insured to obey regulations for the prevention of accident, under penalty of fines up to six marks.

Regulations of this kind must have the approval of the Imperial Insurance Bureau. [§§ 79-81 prescribe further details as to the manner of enforcing the provisions of § 78.]

§ 82. The associations shall have the power to supervise, through their agents, the execution of measures for the prevention of accidents, and to obtain such information in regard to establishments as may be material to membership in the association or arrangement of the danger-tariff. They may also inspect such books and lists as indicate the number of workmen employed and the amounts paid to them, for the purpose of checking the lists of workmen and wages which the employers are required to hand in. Employers belonging

to an association shall permit to the duly authorized agents of the association entrance on their premises during the hours of work and immediate inspection of their books and lists. Failure to comply with this obligation, so far as not effected by § 83, may be punished by the lower administrative authorities by fines of not more than 300 marks.

§ 83. If an employer fears that inspection by agents of the association may lead to the loss of a business secret or to any damage to his business interests, he may demand inspection by other competent persons. In such case, he shall give notice to the executive committee of the association immediately on learning the name of the agent, and shall name to the committee qualified persons who are willing, at his expense, to make the needed inspection of his establishment, and to give the required information to the executive committee of the association. Should the employer and the executive committee of the association fail to agree on a qualified person, the Imperial Insurance Bureau shall make a decision, if applied to by the executive committee.

[The following sections provide that the agents of the associations shall be under an obligation of secrecy, that their names and residences shall be publicly stated, etc.]

## VII. THE IMPERIAL INSURANCE BUREAU.

§ 87. Compliance with the provisions of this act on the part of associations shall be supervised by the Imperial Insurance Bureau. The Imperial Insurance Bureau shall have its seat in Berlin. It shall consist of three permanent members, of whom the chairman shall be one, and of eight non-permanent members. The chairman and the other permanent members shall be appointed for life by the emperor, with the confirmation by the Bundesrath. Four non-permanent members shall be chosen by the Bundesrath from its number. Two shall be chosen by ballot by the executive committees of the associations, and two by the representatives of the workmen in separate elections, which shall take place under the supervision of the Imperial Insurance Bureau. A plurality shall elect. If votes are equal, the decision shall be by lot. The non-permanent members shall hold office for four years. The voice which the individual associations shall have in the election shall be determined by the Bundesrath, upon the basis of the number of persons insured by them.

§ 88. The Imperial Insurance Bureau shall see that associations, in the conduct of their operations, conform to the requirements of law

and of the by-laws. Its decisions shall be final, except where otherwise provided in this act. It shall have the power at any time to examine the conduct of the operations of an association. The members of the executive committee of an association, and its trustees and officers, shall submit, on demand, to the Imperial Insurance Bureau or its representatives, their books, vouchers, all correspondence relating to the contents of their books or to the determination of benefits and contributions, and all documents bearing on the determination of their benefits and contributions. They shall be liable to a fine of not more than 1,000 marks for failure to comply with such demand.

[§§ 90 and 91 regulate the procedure of the Imperial Insurance Bureau, and enact that its expenses shall be borne by the empire. §§ 92 and 93 authorize the establishment of Federal Insurance Bureaus, which may assume the functions of the Imperial Insurance Bureau for the associations lying within any federal state. § 94 authorizes special *Knappschaftsberufsgenossenschaften* on the part of those employers who are members of the *Knappschaften* of the mining regions.]

§ 95. Persons who are insured by this law, and their representatives, have a claim for injury from accident against employers, agents or representatives, superintendents or overseers, only in case these persons have been proved, in a criminal proceeding, to have intentionally brought about the accident. In such case, the claim for injury shall be only for that amount by which the compensation under existing law exceeds the indemnity secured by this act.

§ 96. Employers, agents or representatives, superintendents or overseers, of whom it is proved in a criminal proceeding that they have caused an accident intentionally or by neglect of that degree of caution which is specifically required (*besonders verpflichtet*) of them by virtue of their office, occupation, or calling, shall be liable for all expenses which shall have been incurred by a *Berufsgenossenschaft*, or sick insurance association, in consequence of this act or of the act of June 15, 1883, for the insurance of workmen against sickness. [This liability is also made to attach to joint stock companies, incorporated associations of all kinds, firms, etc., and its details are regulated.]

[The concluding sections fix fines upon employers for failure to comply with the provisions of the act, and fine or imprisonment upon officers or agents of associations for misuse of their powers.]

An act of May 28, 1885,\* extends the insurance against sickness

\* Printed in the *Annalen des Deutschen Reiches*, 1885, pp. 751-754, and translated in the *Bulletin de Statistique et de Législation Comparée*, vol. xviii., p. 87.

and accidents to workmen employed in the postal and telegraph service, on railroads, in the army or navy departments (excepting *Personen des Soldatenstandes*), in dredging, cartage, internal navigation, and transportation of all kinds, to packers, porters, 'longshoremen, etc. If the industry in which they are employed is carried on by the empire or one of the federal states, the latter takes the place of the *Berufsgenossenschaft* for the purposes of insurance against accident. If the industry is carried on by private persons or corporations, *Berufsgenossenschaften* are to be formed among them. The general provisions of the acts of 1883 and of 1884 are made to apply to these occupations, with minor modifications called for by their peculiar conditions.

Agricultural laborers had not been affected by the main acts of 1883 and 1884. An act of May 5, 1886, provides for their insurance against accident, and makes certain regulations as to their insurance against sickness. As regards insurance against accident, the principle of compulsory insurance was applied with modifications called for by the peculiar conditions of agriculture. Agriculture is frequently conducted on a small scale. The small proprietors often employ, without stipulation as to wages, members of their own families. They are apt to act themselves as employees of others. Payments in kind continue in many parts of Germany. In many cases, the employer is bound by contract or customary law to care for the agricultural laborer in case of sickness and accident. These circumstances are taken into account in the act of 1886. As the degree of danger in agriculture does not vary greatly, the *Berufsgenossenschaften* are formed geographically; and a wide discretion is left to the governments of the federated states as to their formation. Prussia, in availing herself of the liberty so granted, has made the boundaries of the *Berufsgenossenschaften* within her borders coincide with those of her provinces; while the sections are made coincident with the smaller local divisions (*Kreise*). Prussia, moreover, effects a saving of expense by intrusting the administration of the act very largely to the local authorities already in existence. Other questions are also left to be settled by the states, such as the extent to which members of the employer's family shall participate in the insurance benefits.

As regards insurance against sickness, the act does not provide for its compulsory adoption, but merely regulates certain details of its application in those cases where communes or other local bodies shall have already applied it to agricultural laborers, under the authority conferred by the act of 1883 (see § 2 of that act). It is pro-

vided, for instance, that, where an employee has a legal claim for support against the employer in case of sickness, as is the case with some members of an employer's family, insurance shall, on the employer's application, be dispensed with, and that it shall similarly be dispensed with where an employer, when sick, has a right to the continuance of payments in kind. The method by which payments in kind shall be computed as money payments is prescribed; and in other ways the manner in which local bodies shall apply insurance against sickness, if they do so at all, is regulated.

Laborers employed in building roads, railroads, canals, etc., and certain others employed on building operations, had not been affected by the insurance act of 1884 or its successors. The act of July 11, 1887, makes provision for them. All employers who carry on such operations as a regular business, unless they are already reached by a previous insurance act, are united into a single *Berufsgenossenschaft*, extending over all Germany, whose affairs are to be managed, in the main, like those of the other associations of the same kind. Laborers hired by employers who do not carry on building as a regular business, and who are not reached by a previous act, are to be insured by the employers in special insurance associations (*Versicherungsanstalten*), which are to be created for this purpose as departments of the *Berufsgenossenschaften* of the building trades. These new associations are similar to ordinary insurance companies, maintained and managed by the *Berufsgenossenschaften* with separate funds and accounts. Where a state or local body carries on building operations, it may insure for itself or may insure in these associations.

An act of July 13, 1887, extends the system of insurance against accident to sailors and others employed in shipping.

The next step in the legislation for compulsory insurance is likely to be an act granting pensions to laborers in case of old age or disability. In the periodical publication *Die Berufsgenossenschaft*, of July 10, 1887, it is stated, apparently on official authority, that a bill having this object is now in the hands of the Imperial Chancellor, and will soon be laid before the governments of the federal states. It provides for pensions to disabled or aged laborers, but makes no provision for widows and orphans. The system is to be administered by the *Berufsgenossenschaften*, by whom the pensions are also to be paid. The funds are to be raised by equal contributions from the state, the employers, and the employees, each of whom is to pay about one per cent. of wages.

In Austria, bills were introduced in 1885 by the government, providing for insurance against sickness and accident.\* They were

\* See the *Bulletin de Législation Comparée* for February, 1887, p. 196.



modelled on the German acts, though not without important differences in detail. The bill for insurance against accident was adopted by the Lower House in June, 1886, but has not as yet (September, 1887) become law. The bill for insurance against sickness has not yet come up for discussion.